

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

BEST MEDICAL INTERNATIONAL, INC.,
Plaintiff,

v.

ACCURAY, INC.

Defendant

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No. 2:10-cv-1043-TFM

SPECIAL MASTER'S CLAIM CONSTRUCTION HEARING ORDER

PURSUANT TO the Order of Court Appointing Special Master [Doc. 56], the master held a telephone conference with the parties on June 1, 2011, to discuss the format and scheduling of a Claim Construction or *Markman*¹ hearing.

The parties advised that they would like to schedule two days, with a tutorial preceding the claim construction hearing. The parties agreed that the tutorial should be limited to two (2) hours per side, and that the Claim Construction Hearing should be limited to three (3) hours per side. The parties advised that they did not wish an evidentiary hearing, although the parties' experts would attend and be available for questions. The parties agreed on January 10-11, 2012, as the dates for the hearing. The parties further advised that they would mutually agree on a procedure for exchanging exhibits, PowerPoint and other presentations in advance of the hearing.

THEREFORE, PLEASE TAKE NOTICE that a Claim Construction Hearing and Tutorial is scheduled to begin at 9:00 a.m. on January 10, 2012, and shall conclude no later than 5:00 p.m. on January 11, 2012, in Courtroom 6C of the Honorable Terrence F. McVerry, 6th Floor, United States Courthouse, 700 Grant Street, Pittsburgh, Pennsylvania 15219.

The hearing shall begin with a technology tutorial, limited to two (2) hours per side. The hearing on claim construction will begin immediately thereafter, and shall be limited to three (3) hours per side. During the claim construction hearing, the parties may proceed either (1) term-

¹ *Markman v. Westview Instruments, Inc.*, 517 U.S. 370 (1996).

by-term (a/k/a “ping-pong fashion”), or (2) side-by-side, as they choose. The parties will meet and confer regarding exchanging exhibits, PowerPoint and other presentations in advance of the hearing.

Questions concerning briefing and other issues in advance of the hearing should be directed to the Court, unless the Court refers the same to the master.

SIGNED this 7th day of June, 2011, in San Antonio, Texas.

/s/ Gale R. Peterson
Gale R. Peterson, Special Master

CERTIFICATE OF SERVICE

I hereby certify that on June 7, 2011, I electronically filed the foregoing with the Clerk using the CM/ECF system which will send notification to the following parties:

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and delivered a chambers copy via () Federal Express or () U.S. Mail to:

The Honorable Terrence F. McVerry
Western District of Pennsylvania
700 Grant Street
6th Floor, Courtroom Number 6C, Room Number 6370
Pittsburgh, PA 15219
(Over 25 pages)

/s/ Gale R. Peterson
Gale R. Peterson, Special Master